

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MICHIGAN (Southern Division)

PARAMOUNT COFFEE COMPANY,
A Michigan Corporation

Case No. _____
Hon. _____

Petitioner,

v

UNITED STATES OF AMERICA/REGISTER OF COPYRIGHTS

Respondent.

COMPLAINT & PETITION FOR REVIEW

NOW COMES Petitioner Paramount Coffee Company (“Paramount”), pursuant to the federal Administrative Procedures Act (“APA”), 5 USC §500 et. seq., and petitions for review of the final agency action dated August 23, 2016 by the Register of the United States Copyright Office (“Register”), denying registration of Petitioner’s package designs (including text and artwork) for its Joe Coffee products. The Register’s final denial is attached as **Exhibit A**.

1. Paramount filed for copyright registration of its Joe Coffee package designs (Wake Up Joe, Joe Tall Dark and Handsome, and Joe Unleaded) on April 10, 2015.

2. Following Respondent’s initial refusal to register, Paramount timely filed its First Request for Reconsideration on August 6, 2015 and its Second Request for Reconsideration on January 6, 2016. The Second Request is attached as **Exhibit B** and includes a copy of the First Request.

3. Respondent's final denial of registration dated August 23, 2016 ("Final Denial") constitutes final agency action under the APA and the Respondent's promulgated rules (37 CFR §202.5(g)).

4. Jurisdiction and venue are proper in this Court pursuant to 5 USC §703, 28 USC §1338, 28 USC §1346, 28 USC §1390 and 28 USC §1402.

5. Respondent's Final Denial is subject to reversal under the APA, the United States Constitution, and the Respondent's authorizing federal statute (17 USC §101 et. seq.) and promulgated regulations (37 CFR §201 et. seq.), for the following reasons, as identified in **Exhibit B:**

a. The combination of all the elements of Paramount's Joe Coffee package designs possess the "minimal degree of creativity" required by *Feist Publications, Inc. v. Rural Telephone Service* 499 U.S. 340 (1991);

b. Contrary to its authorizing statute, regulations and guidelines, Respondent refused to review and consider all elements of Paramount's package designs (text and artwork) in combination to determine the "minimal degree of creativity".

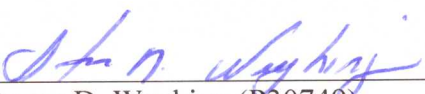
6. The Final Denial is contrary to the Constitution; contrary to the statutory authority and jurisdiction of the agency; not supported by competent, material and substantial evidence; arbitrary, capricious, an abuse of discretion; and not in accordance with law.

WHEREFORE, Petitioner requests that this Court reverse the registration denial of the Respondent and assess court costs and attorney fees wrongly incurred.

Respectfully submitted,

PARAMOUNT COFFEE COMPANY

Date: 8/30/16

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